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BEFORE THE ARIZONA CORPORATION COMMISSION
COMMISSIONERS

Arizona Corporation Commission

2016 NOV 17 A 10:34

DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN

DOCKETED

NOV 17 2016

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR A
HEARING TO DETERMINE THE FAIR VALUE OF
THE UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX A JUST
AND REASONABLE RATE OF RETURN
THEREON, TO APPROVE RATE SCHEDULES
DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. E-01345A-16-0036

IN THE MATTER OF FUEL AND PURCHASED
POWER PROCUREMENT AUDITS FOR ARIZONA
PUBLIC SERVICE COMPANY.

DOCKET NO. E-01345A-16-0123

PROCEDURAL ORDER
Sets a Procedural Schedule

BY THE COMMISSION:

On June 1, 2016, Arizona Public Service Company (“APS” or “Company”) filed with the Arizona Corporation Commission (“Commission”) the above-captioned Rate Case Application.

Parties who have previously been granted intervention in this docket are Richard Gayer; Patricia Ferré; Warren Woodward; IO Data Centers, LLC (“IO”); Freeport Minerals Corporation (“Freeport”); Arizonans for Electric Choice and Competition (“AECC”); Sun City Home Owners Association (“Sun City HOA”); Western Resource Advocates (“WRA”); Arizona Investment Council (“AIC”); Arizona Utility Ratepayer Alliance (“AURA”); Property Owners and Residents Association, Sun City West (“PORA”); Arizona Solar Energy Industries Association (“AriSEIA”); Arizona School Boards Association (“ASBA”) and Arizona Association of School Business Officials (“AASBO”) (collectively “ASBA/AASBO”); Cynthia Zwick; Arizona Community Action Association (“ACAA”); Southwest Energy Efficiency Project (“SWEEP”); the Residential Utility Consumer Office (“RUCO”); Vote Solar; Electrical District Number Eight and McMullen Valley Water Conservation & Drainage District (collectively, “ED8/McMullen”); The Kroger Co. (“Kroger”); Tucson Electric Power Company (“TEP”); Pima County; Solar Energy Industries Association (“SEIA”); the Energy Freedom

Coalition of America (“EFCA”); Wal-Mart Stores, Inc. and Sam’s West, Inc. (collectively, “Walmart”); Local Unions 387 and 769 of the International Brotherhood of Electrical Workers, AFL-CIO (collectively, “the IBEW Locals”); Noble Americas Energy Solutions LLC (“Noble Solutions”); the Arizona Competitive Power Alliance (“the Alliance”); Electrical District Number Six, Pinal County, Arizona (“ED 6”), Electrical District Number Seven of the County of Maricopa, State of Arizona (“ED7”), Aguila Irrigation District (“AID”), Tonopah Irrigation District (“TID”), Harquahala Valley Power District (“HVPD”), and Maricopa County Municipal Water Conservation District Number One (“MWD”) (collectively, “Districts”); the Federal Executive Agencies (“FEA”); Constellation New Energy, Inc. (“CNE”); Direct Energy, Inc. (“Direct Energy”); and AARP.

On June 14, 2016, APS filed a Notice of Errata.

On June 17, 2016, ACAA filed a Consent to Email Service.

On June 23, 2016, APS filed its Second Notice of Errata.

On June 24, 2016, APS filed a copy of the notice it provided to parties of record of the Rate Case Technical Conferences scheduled for July 20, 2016, August 23, 2016, September 29, 2016, and October 26, 2016.

On July 1, 2016, the Commission’s Utilities Division (“Staff”) issued a Letter of Sufficiency pursuant to Arizona Administrative Code (“A.A.C.”) R14-2-103, classifying APS as a Class A utility.

On July 5, 2016, Kroger filed a Consent to Email Service.

On July 21, 2016, APS filed a copy of the presentation from its first Rate Case Technical Conference.

On July 22, 2016, a Rate Case Procedural Order was issued setting the procedural schedule and associated procedural deadlines for this matter, granting several interventions, and granting several requests to receive service by email.

On August 1, 2016, a Procedural Order was issued granting Staff’s request to consolidate the above-captioned dockets,¹ correcting typographical errors in the July 22, 2016 Rate Case Procedural Order, granting interventions, and granting requests to receive service by email.

¹ Docket No. E-01345A-16-0123 was opened on April 11, 2016.

1 On August 5, 2016, APS filed a Motion for Clarification and Extension of Time.

2 On August 9, 2016, a Procedural Order was issued granting APS's Motion for Clarification and
3 Extension of Time. The Procedural Order also granted several interventions and approved a consent
4 to email service.

5 On August 24, 2016, APS filed a copy of the presentation from its second Rate Case Technical
6 Conference.

7 On August 25, 2016, Correspondence from Commissioner Bob Burns was filed in the docket.

8 On September 6, 2016, Mr. Woodward filed two sets of comments.

9 On September 9, 2016, APS filed correspondence regarding subpoenas dated August 25, 2016.

10 On September 9, 2016, APS filed a Motion to Sever.

11 On September 9, 2016, APS filed a Motion to Quash, or in the Alternative, to Decline to Hear.

12 On September 12, 2016, APS filed correspondence regarding subpoenas dated August 25, 2016.

13 On September 13, 2016, APS filed an Affidavit of Publication and Proof of Mailing.

14 On September 13, 2016, Correspondence from Commissioner Bob Burns was filed in the
15 docket.

16 On September 30, 2016, APS filed a copy of the presentation from its third Rate Case Technical
17 Conference.

18 On October 3, 2016, EFCA filed a Notice of Deposition of Barbara D. Lockwood.

19 On October 6, 2016, APS filed a Motion for Procedural Conference and Interim Protective
20 Order.

21 On October 12, 2016, EFCA filed its Response to Motion for Procedural Conference and
22 Interim Protective Order.

23 On October 13, 2016, Mr. Woodward filed comments.

24 On October 14, 2016, Mr. Woodward filed a Response to Chairman Little's October 4, 2016
25 Memorandum and Call for Recusal.

26 On October 14, 2016, a Procedural Order was issued granting APS's request for an interim
27 protective order regarding EFCA's October 3, 2016 Notice of Deposition, and setting a procedural
28 conference to be held on October 20, 2016 for the purpose of discussing discovery issues, including

1 but not limited to the deposition of APS witness Barbara D. Lockwood.

2 On October 17, 2016, APS filed a Consent to Email Service.

3 On October 18, 2016, APS filed its Reply in Support of Motion for Procedural Conference and
4 Interim Protective Order.

5 On October 18, 2016, Correspondence from Chairman Doug Little was filed in the docket.

6 On October 19, 2016, FEA and Vote Solar each filed a Consent to Email Service.

7 On October 19, 2016, AURA filed its Response in Support of the Notice of Deposition.

8 On October 20, 2016, a procedural conference was held as scheduled by the Procedural Order
9 issued October 14, 2016. APS, EFCA, TEP, Walmart, Freeport Minerals, AECC, Noble Solutions,
10 CNE, Direct Energy, PORA, the Alliance, RUCO, and Staff appeared at the procedural conference
11 through counsel or lay representative. During the procedural conference, APS, Noble Solutions, CNE,
12 Direct Energy, EFCA, and Staff provided comments and arguments regarding discovery issues, and
13 the matter was taken under advisement.

14 On October 21, 2016, a Procedural Order was issued granting intervention to AARP, admitting
15 counsel for AARP *pro hac vice* in this matter, and rescheduling the date of the pre-hearing conference
16 in this matter to March 13, 2017.

17 On October 24, 2016, the City of Sedona ("Sedona") filed an Application to Intervene and a
18 Consent to Email Service.

19 On October 26, 2016, Mr. Woodward filed his Reply to Chairman Little's October 18, 2016
20 Memorandum and Call for Recusal.

21 On October 27, November 1, November 8, and November 9, 2016, AARP filed Consents to
22 Email Service.

23 On November 2, 2016, Arizona Solar Deployment Alliance ("ASDA") filed an Application to
24 Intervene and a Consent to Email Service.

25 On November 4, 2016, EFCA filed a Supplemental Statement of Authority.

26 On November 4, 2016, APS filed a copy of the presentation from its fourth Rate Case Technical
27 Conference.

28 On November 9, 2016, APS filed a Response to EFCA's Supplemental Statement of Authority.

1 On November 9, 2016, Sunrun Inc. ("Sunrun") filed an Application for Leave to Intervene.

2 On November 10, 2016, the City of Coolidge ("Coolidge") filed an Application for Leave to
3 Intervene.

4 On November 10, 2016, REP America d/b/a ConservAmerica ("ConservAmerica") filed an
5 Application for Leave to Intervene and Consent to Service by Email.

6 On November 10, 2016, Granite Creek Power & Gas ("Granite Creek Power") and Granite
7 Creek Farms LLC ("Granite Creek Farms") (collectively, "Granite Creek") jointly filed an Application
8 for Leave to Intervene and a Consent to Email Service signed by Thomas E. Stewart. The Application
9 for Leave to Intervene states that Mr. Stewart is General Manager of Granite Creek Power. Both
10 entities' Articles of Organization list Mr. Stewart as a manager.

11 On November 15, 2016, Mr. Woodward filed comments.

12 On November 15, 2016, Sunrun filed a Consent to Email Service.

13 Numerous public comments have been filed.

14 Intervention Requests

15 No objections have been filed to the intervention requests filed by AARP, Sedona, or ASDA.
16 They should therefore be granted intervention.

17 The intervention requests filed by Sunrun, Coolidge, ConservAmerica, and Granite Creek will
18 be considered when adequate time has elapsed to allow for any objection.

19 Complete Consents to Service by Email

20 ACAA, APS, FEA, AARP, Sedona, and ASDA have completed all of the steps for approval of
21 Consent to Email Service in this docket, and their designated and courtesy email addresses have now
22 been added to the service list. Sunrun, ConservAmerica, and Granite Creek, whose interventions are
23 pending, have also completed all of the steps for approval of Consent to Email Service in this docket,
24 and their designated and courtesy email addresses have been added to their addresses on the list of
25 pending interventions attached to this Procedural Order.

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27 ...

28 ...

1 Deposition of Barbara D. Lockwood

2 On October 3, 2016, EFCA filed its Notice of Deposition of Barbara D. Lockwood² scheduling
3 the deposition for October 19, 2016, at 9:00 a.m. ("Notice of Deposition").

4 On October 6, 2016, APS filed its Motion for Procedural Conference and Interim Protective
5 Order.

6 On October 14, 2016, a Procedural Order was issued granting APS's request for an interim
7 protective order regarding the Notice of Deposition, and setting a procedural conference for the purpose
8 of discussing discovery issues, including but not limited to the deposition of Barbara D. Lockwood.

9 On October 20, 2016, a procedural conference was held as scheduled by the Procedural Order
10 issued October 14, 2016. APS, EFCA, TEP, Walmart, Freeport Minerals, AECC, Noble Solutions,
11 CNE, Direct Energy, PORA, the Alliance, RUCO, and Staff appeared at the procedural conference
12 through counsel or lay representative. During the procedural conference, APS, Noble Solutions, CNE,
13 Direct Energy, EFCA, and Staff provided comments and arguments regarding discovery issues, and
14 the matter was taken under advisement.

15 On November 4, 2016, EFCA filed its Supplemental Statement of Authority, and on November
16 9, 2016, APS filed its Response thereto.

17 Deposition practice is not the ordinary means of discovery used in cases that come before the
18 Commission. Because Commission practice includes the provision of prefiled written testimony far in
19 advance of hearings, there are less costly means for parties to obtain additional information from each
20 other prior to hearing. While deposition practice is not the norm, EFCA wishes to use it in this
21 proceeding. APS has indicated that it believes EFCA's deposition would better serve EFCA's interests
22 if timed to occur after APS has filed its Rebuttal Testimony, which is due on February 17, 2017. EFCA
23 has indicated, however, that it wishes to take Ms. Lockwood's deposition in order to prepare its own
24 Direct Testimony in this proceeding, which is due on December 21, 2016.³

25 Subject to reasonable constraints, EFCA should be allowed to depose Ms. Lockwood, and the
26 parameters set forth in the Ordering Paragraphs below should apply to the deposition. By means of

27
28 ² APS prefiled the Direct Testimony of Ms. Lockwood with the Rate Case Application on June 1, 2016.

³ Staff and Intervenor Direct Testimony on Rate Design issues is due on January 27, 2017.

1 this Procedural Order, the parties and entities with pending intervention requests will have notice of
2 their need to contact EFCA and APS in order to indicate a desire to attend or participate in the
3 deposition. EFCA and APS should be required to make good faith efforts to schedule the deposition
4 to include other parties who wish to participate in the deposition process.⁴

5 IT IS THEREFORE ORDERED that **Arizona Public Service Company and the Energy**
6 **Freedom Coalition of America shall arrange a date and time for the deposition of Barbara D.**
7 **Lockwood to take place as soon as practicable.**

8 IT IS FURTHER ORDERED that **the above-referenced deposition shall be scheduled to**
9 **take place no later than December 9, 2016.**

10 IT IS FURTHER ORDERED that **the above-referenced deposition shall not exceed 8 hours**
11 **in length.**

12 IT IS FURTHER ORDERED that **any party, or entity with an application for intervention**
13 **currently pending, who wishes to attend, or participate in, the above-referenced deposition, shall**
14 **contact Arizona Public Service Company and the Energy Freedom Coalition of America no later than**
15 **4:00 p.m. on November 21, 2016, to make its wishes known to them.**

16 IT IS THEREFORE ORDERED that **Arizona Public Service Company and the Energy**
17 **Freedom Coalition of America shall make good faith efforts to schedule the above-referenced**
18 **deposition to include other parties who wish to participate in the deposition process.**

19 IT IS FURTHER ORDERED that **the Energy Freedom Coalition of America shall file in this**
20 **docket, as soon as practicable, but no later than 4:00 p.m. on December 1, 2016, either a Notice of**
21 **Deposition setting forth the date, time, and place of the scheduled deposition, or in the alternative,**
22 **a Notice indicating that it has decided not to depose Ms. Lockwood.**

23 IT IS FURTHER ORDERED that AARP, the City of Sedona, and the Arizona Solar
24 Deployment Alliance are hereby granted intervention.

25 IT IS FURTHER ORDERED that the requests by Arizona Community Action Association,
26 Arizona Public Service Company, the Federal Executive Agencies, AARP, the City of Sedona, and the
27

28 ⁴ Other means of discovery are available, and will remain available, to all parties to this proceeding.

1 Arizona Solar Deployment Alliance to receive service of all filings in this docket via **their respective**
2 **designated email addresses** rather than via U.S. Mail is hereby approved.

3 IT IS FURTHER ORDERED that, conditioned on their intervention requests being granted, the
4 requests by Sunrun Inc., the City of Coolidge, REP America d/b/a ConservAmerica, and Granite Creek
5 Power & Gas and Granite Creek Farms LLC to receive service of all filings in this docket via **their**
6 **respective designated email addresses** rather than via U.S. Mail is hereby approved.

7 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
8 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
9 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
10 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
11 discussion, unless counsel has previously been granted permission to withdraw by the Administrative
12 Law Judge or the Commission.

13 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
14 31, 38, 39, and 42 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

15 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
16 Communications) applies to this proceeding and shall remain in effect until the Commission's Decision
17 in this matter is final and non-appealable.

18 IT IS FURTHER ORDERED that each party or prospective party shall **refer to the Rate Case**
19 **Procedural Order** issued in this matter on **July 22, 2016**, for additional information regarding the
20 process to consent to service by email. Information regarding Consent to Email Service is also
21 available on the Commission's website (www.azcc.gov) by clicking on "Email Service Consent."

22 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or
23 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
24 hearing.

25 DATED this 17th day of November, 2016.

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TEENA JBILIAN
ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

On this 17th day of November, 2016, the foregoing document was filed with Docket Control as a Procedural Order – Sets a Procedural Schedule, and copies of the foregoing were mailed on behalf of the Hearing Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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